

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE ST. PAUL CITY COUNCIL

In the Matter of the Taxicab Driver  
License Renewal Application of  
James P. Rejsa

**FINDINGS OF FACT,  
CONCLUSIONS AND  
RECOMMENDATION**

This matter was heard by Administrative Law Judge Richard C. Luis at the St. Paul City Hall on June 5, 2003. Virginia D. Palmer, Assistant City Attorney, 400 City Hall, 15 West Kellogg Boulevard, St. Paul, Minnesota 55102, appeared on behalf of the City's Office of Licensing, Inspections and Environmental Protection (LIEP). James P. Rejsa, 300 Warner Avenue North, Mahtomedi, Minnesota 55115, appeared on his own behalf. The record closed at the conclusion of the hearing on June 5.

**NOTICE**

This Report is a recommendation, not a final decision. The St. Paul City Council will make the final decision after a review of the record and may adopt, reject or modify these Findings of Fact, Conclusions and Recommendation. Pursuant to St. Paul Legislative Code § 310.05(c-1), The Council shall not make a final decision until the parties have had an opportunity to present oral or written arguments to the Council. The parties should contact City Clerk Donald Luna, 170 City Hall, 15 West Kellogg Boulevard, St. Paul, Minnesota 55102 for information concerning the scheduling of argument, if any, and the date on which the Council will meet to decide this matter.

**ISSUE**

Whether the application for license renewal by James P. Rejsa should be denied because he has a felony conviction within the last five years?

Based on all of the proceedings herein, the Administrative Law Judge makes the following:

**FINDINGS OF FACT**

1. On February 9, 2001, James P. Rejsa ("Applicant", "Licensee") was apprehended while driving his personal vehicle in Pinal County, Arizona, in the process of transporting a large amount of a controlled substance from Arizona to Minnesota in return for an unspecified amount of money.

2. On May 21, 2001, Mr. Rejsa pleaded guilty to the Attempted Transportation of a Dangerous Drug for Sale, a Class 3 felony under Arizona statutes,

before a Superior Court Judge in Pinal County. He received a suspended sentence of three years, which expires June 21, 2004, and was required to serve the first nine months (less 48 days' credit for pretrial confinement) in the Pinal County jail in Florence, Arizona. After his release from jail, Mr. Rejsa returned to Minnesota, where he remains on probation for his Arizona conviction under the supervision of a parole officer in Washington County. As of the date of the hearing, Mr. Rejsa had not been released from his sentence, and he remained ineligible for release until June, 2004.

3. After returning to Minnesota, Mr. Rejsa applied for and was granted a provisional taxicab drivers license by the City of St. Paul ("City"). The license was made permanent, subject to annual renewals, on June 21, 2002. Although the license expired June 21, 2003, Mr. Rejsa is allowed to continue operating a taxi in St. Paul, pending the final disposition of this case.

4. The criminal history background check run by the City's Office of Licensing, Inspections and Environmental Protection at the time of Mr. Rejsa's initial application did not reveal his criminal record from outside Minnesota. When the Licensee applied for license renewal in March 2003, however, he was informed that his Arizona conviction from 2001 would be the basis for a recommended denial of license renewal. St. Paul Legislative Code § 376.16(e)(4), cited as the legal authority for the proposed denial, requires that an applicant shall have no felony convictions in the last five years in order to be eligible for a taxi driver's license. Mr. Rejsa appealed, and appeared before the Council in April, 2003. The Council referred the matter to the Office of Administrative Hearings.

5. Since he was granted a taxi driver's license in 2002, the Licensee has been employed as a driver for Yellow Cab Company of St. Paul. He has been a reliable, responsible employee with an excellent performance record (no complaints, and several compliments, have been expressed to Company management about Mr. Rejsa). He hopes to be able to continue working as a taxi driver, which employment gives him a steady income and provides a grounding for approaching life with a purpose. Having a steady income will enable the Applicant also to continue funding his civil service pension, which he can fund fully in approximately nine months (Mr. Rejsa was a U.S. Postal Service Worker for 28 years). He believes he is not at risk to reoffend, because of the combined factors of having to go back to jail (which he hated) if he does reoffend, and the incentive he has to keep working steadily and get his pension funded fully. Mr. Rejsa is 53 years old.

6. Mr. Rejsa's crime, transportation of drugs for sale in his motor vehicle, relates directly to the occupation of taxicab driver. Members of the public, who frequently ride alone with taxi drivers, are vulnerable to an approach by a driver to engage in illegal activity, such as the sale of controlled substances. The Applicant has presented no evidence about the nature, seriousness or the circumstances relating to his crime that show mitigating circumstances (he agreed freely to transport the drugs for money, because he needed "easy" money to finance a pending lawsuit against his former employer). Apart from testimony as to his fitness as a driver offered by the owner/manager of the Yellow Cab Company of St. Paul, no other witnesses or letters of reference in Mr. Rejsa's support have been produced.

Based on the above Findings, the Administrative Law Judge makes the following:

### **CONCLUSIONS**

1. The Administrative Law Judge and the St. Paul City Council have jurisdiction in this case under Minn. Stat. § 14.55 and St. Paul Legislative Code §§ 310.05, 376.16.

2. Mr. Rejsa received timely and proper notice of the hearing and the City has complied with all relevant substantive and procedural requirements of statute and rule.

3. The City has the authority to deny a taxicab driver's license to a person who has had a felony conviction within the last five years under St. Paul Legislative Code § 376.16(e)(4).

4. Under Minn. Stat. § 364.03, Mr. Rejsa cannot be disqualified from licensure as a taxicab driver by the City unless the crime for which he was convicted relates directly to the occupation for which he seeks a license. Mr. Rejsa's felony conviction for attempted transportation of a dangerous drug for sale relates directly to the occupation of taxicab driver within the meaning of Minn. Stat. § 364.03, subd. 2.

5. Under Minn. Stat. § 364.03, subd. 3, a person who has been convicted of a crime which relates directly to the occupation for which he seeks a license shall not be disqualified from such an occupational license if he can show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the occupation for which the license is sought. Mr. Rejsa has not demonstrated by a preponderance of the evidence that he has shown evidence of sufficient rehabilitation and present fitness to perform the duties of a taxicab driver within the meaning of Minn. Stat. § 364.03, subd. 3.

Based upon the above Conclusions, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

IT IS RECOMMENDED that the St. Paul City Council DENY the application by James P. Rejsa for renewal of a taxicab license.

Dated this 27th day of July, 2003

/s/ Richard C. Luis

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RICHARD C. LUIS

Administrative Law Judge

Reported: Taped  
No transcript.

## **MEMORANDUM**

Mr. Rejsa made no contention that the occupation of taxicab driver does not relate directly to his felony conviction for attempted transportation of a dangerous drug for sale. The Administrative Law Judge is persuaded by the City's argument that the conviction in this case is related to the occupation for which licensure is sought because patrons of taxicabs could be approached by the vehicle's operator to engage in illicit activity, such as the purchase or use of illegal drugs.

The inquiry now turns to whether Mr. Rejsa's demonstration of rehabilitation and present fitness to perform the occupation of taxicab driver is sufficient to meet the standards found at Minn. Stat. § 364.03. Under subdivision 3 of that statute, sufficient evidence of rehabilitation may be established by production of a release order from the state where the disqualifying conviction arose. The record shows that Mr. Rejsa has no such order, because he is still under sentence for approximately one more year. The statute also recognizes evidence showing compliance with all terms and conditions of probation or parole, a condition which Mr. Rejsa, who is still on parole, is unable to satisfy.

In addition to such documentary evidence, an applicant for licensure can present evidence regarding the nature and seriousness of the crime, all circumstances relative to the crime (including mitigating circumstances) and other competent evidence of rehabilitation and present fitness including, but not limited to, letters of reference by persons who have been in contact with the applicant since the applicant's release from jail. Mr. Rejsa presented no such evidence, except for testimony to the effect that he has been a fine, competent taxicab driver.

The Administrative Law Judge is impressed by Mr. Rejsa's sincerity when he says that his current ambition in life is to earn money in a steady job, and stay away from criminal activity. However, he still is disqualified from the receipt of a taxicab driver's license for five years subsequent to his 2001 conviction, unless he can show sufficient evidence of rehabilitation to satisfy Minn. Stat. § 364.03. The statute provides for specific methods by which an applicant can demonstrate such rehabilitation and present fitness to perform the occupation for which licensure is sought. In this case, Mr. Rejsa's evidence falls short of the "competent evidence" standard contemplated by the law. As a result, it has been recommended that his application for license renewal be denied.

**R.C.L.**